

House File 336 - Introduced

HOUSE FILE 336

BY ISENHART

A BILL FOR

1 An Act authorizing cities and counties to establish energy
2 investment districts and district boards and providing for
3 financing of energy investments.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 385.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Board*" means an energy investment district board
5 appointed pursuant to this chapter.

6 2. "*Energy investment*" means an acquisition, installation,
7 or modification benefitting private property, except
8 residential property with fewer than three residential units,
9 that is intended to reduce energy consumption or energy costs,
10 or both, or is intended to provide or allow for the use of
11 alternate and renewable energy. The term includes but is not
12 limited to the following measures:

13 a. Insulating walls, roofs, attics, floors, foundations, and
14 heating and cooling distribution systems.

15 b. Repairing, replacing, or installing storm windows
16 and doors, multiglazed windows and doors, heat-absorbing or
17 heat-reflective windows and doors, and other window and door
18 improvements designed to reduce energy consumption.

19 c. Constructing or reconstructing roofs designed to reduce
20 energy consumption or support additional loads necessitated by
21 other energy investments.

22 d. Installing energy control and measurement devices.

23 e. Heating, ventilating, or air conditioning distribution
24 system modifications and replacements.

25 f. Caulking and weatherstripping.

26 g. Installing lighting fixtures that result in increased
27 energy efficiency of the lighting system.

28 h. Installing water heating systems, elevators, and
29 escalators that result in increased energy efficiency.

30 i. Repairing, replacing, or installing energy recovery
31 systems.

32 j. Repairing, replacing, or installing daylighting systems.

33 k. Repairing, replacing, or installing energy systems that
34 provide energy from alternate or renewable energy, including
35 solar, wind, biomass, geothermal, or cogeneration.

1 1. Repairing, replacing, or installing facilities or
2 fixtures providing for water conservation or pollutant control.
3 m. Repairing, replacing, or installing an energy investment
4 related item so long as the cost of the energy investment
5 related item does not exceed twenty-five percent of the total
6 cost of the project.

7 3. "*Energy investment related item*" means a repair,
8 replacement, improvement, or modification to real property
9 that is necessary or desirable in conjunction with an energy
10 investment. The term includes but is not limited to structural
11 support improvements and the repair or replacement of any
12 building components, paved surfaces, or fixtures disrupted or
13 altered by the installation of an energy investment.

14 4. "*Project*" means one or more energy investments to be
15 installed on a property.

16 Sec. 2. NEW SECTION. **385.2 Energy investment district**
17 **created.**

18 1. A county or city may create an energy investment district
19 pursuant to this chapter in order to provide financing for
20 energy investment projects to benefit real property in the
21 district.

22 2. One or more counties and one or more cities within
23 those counties may create, by chapter 28E agreement, an energy
24 investment district pursuant to this chapter in order to
25 provide financing for energy investment projects to benefit
26 real property in the district. The agreement creating the
27 energy investment district shall specify the geographic
28 boundaries of the district.

29 Sec. 3. NEW SECTION. **385.3 Energy investment district board**
30 **— membership — powers.**

31 1. The governing bodies of the counties and cities
32 participating in an energy investment district shall appoint a
33 board to manage and administer the energy investment district.
34 An energy investment district board shall consist of at least
35 three members, but if the district is created pursuant to

1 section 385.2, subsection 2, in no case shall there be fewer
2 members than the number of participating cities and counties.
3 The agreement creating the energy investment district shall set
4 the term length of board members.

5 2. A board shall have and may exercise the powers and duties
6 necessary for management and administration of the energy
7 investment district as such powers and duties are described
8 in the agreement, including but not limited to the following
9 express powers and duties:

10 a. To adopt, amend, and repeal bylaws consistent with the
11 provisions of this chapter.

12 b. To adopt an official seal.

13 c. To sue and be sued in all courts.

14 d. To make and enter into contracts with public and private
15 entities.

16 e. To accept grants, guarantees, and donations of property,
17 labor, services, and other items of value from a public or
18 private source.

19 f. To employ or contract for such managerial, legal,
20 technical, clerical, accounting, or other assistance it
21 deems advisable. However, the board shall not enter into any
22 arrangement that results in an exclusive lender, underwriter,
23 or other funding partner for all projects funded by the board.

24 g. To finance projects under assessment contracts.

25 h. To levy and collect special assessments under an
26 assessment contract with a property owner.

27 i. To borrow money from a public or private source and issue
28 bonds and provide security for the repayment of such bonds.

29 j. To charge and collect fees pursuant to section 385.5.

30 k. To invest funds not required for immediate disbursement,
31 subject to section 28E.5, subsection 2.

32 3. A board shall exist for a minimum duration necessary to
33 finance any assessment contracts that the board enters into
34 pursuant to section 385.4.

35 Sec. 4. NEW SECTION. 385.4 Project financing requirements

1 — **assessment contracts.**

2 1. A board may finance a project if the following criteria
3 are met:

4 a. There are sufficient resources to complete the project.

5 b. The estimated monetary benefit, as determined by the
6 board after consultation with an outside expert, and including
7 but not limited to energy cost savings, maintenance, and other
8 property operating savings expected from the project during the
9 financing period is equal to or greater than the principal and
10 interest cost of the project, including special assessments and
11 any applicable fees.

12 c. The project complies with the ordinances and regulations
13 of the county or city where the property is located, including
14 but not limited to such ordinances and regulations concerning
15 zoning, subdivision of property, building, fire safety, and
16 historic or architectural review.

17 2. A board shall finance a project under an assessment
18 contract. An assessment contract shall be executed by the
19 board and the property owner or owners and shall include the
20 following components:

21 a. A description of the project, including the estimated
22 cost of the project and a description of the estimated savings,
23 prepared in accordance with standards accepted by the board.

24 b. A mechanism for verifying the final costs of the project
25 upon its completion and ensuring that any amounts advanced,
26 financed, or otherwise provided by the board will not exceed
27 the final cost of the project.

28 c. An agreement by the property owner to pay special
29 assessments and any applicable fees for a period not to exceed
30 the weighted average useful life of the project, as specified
31 in the assessment contract.

32 d. An assessment schedule adopted by the board by
33 resolution, stating the number of annual installments due,
34 stating the time when assessments and any applicable fees are
35 payable, and providing for interest on all unpaid installments

1 and fees at a rate not exceeding that permitted by chapter 74A.

2 *e.* A statement that the obligations provided in the
3 assessment contract, including the obligation to pay special
4 assessments and any applicable fees charged, are a covenant
5 that shall run with the land and be obligations upon future
6 owners of such property.

7 *f.* An acknowledgment that the subdivision of property
8 subject to the assessment contract shall require the assessment
9 contract or an amendment to the contract to divide the total
10 special assessment and any applicable fees charged due between
11 the newly subdivided parcels in proportion to the benefit
12 realized by each subdivided parcel.

13 *g.* An acknowledgment from all entities holding mortgages on
14 the real property, or the contract seller under a real estate
15 contract, to be assessed under the assessment contract that
16 such interest holders have consented to the levy and collection
17 of the special assessments and any applicable fees charged, as
18 described in the assessment contract.

19 3. *a.* A board shall provide a copy of a signed assessment
20 contract to the county or city assessor, as appropriate, and to
21 the county auditor of the county where the property is located
22 and shall file for recording a copy of the assessment contract
23 with the county recorder.

24 *b.* The city clerk or county auditor, as appropriate, shall
25 certify the assessment schedule to the treasurer of each county
26 where the property is located. The county treasurer shall
27 enter on the county system the amounts to be assessed against
28 the property, as certified.

29 4. A board may enter into more than one assessment contract
30 with respect to a single parcel of real property, so long as
31 each assessment contract relates to a separate project.

32 5. A board shall determine an inspection procedure to
33 be utilized upon completion of an energy investment financed
34 pursuant to this chapter.

35 Sec. 5. NEW SECTION. 385.5 Special assessments — fees —

1 **delinquency.**

2 1. The total special assessments levied by a board under an
3 assessment contract shall not exceed the sum of the cost of the
4 project, including any energy audits or inspections or portions
5 thereof financed by the board, plus interest.

6 2. In addition to special assessments provided under
7 subsection 1, a board may also charge a fee of up to one percent
8 of the total cost of a project, which fee may not exceed twenty
9 thousand dollars per project. Such fee shall be charged in
10 connection with administration of the assessment contract
11 and with any technical, consultative, or project assistance
12 services required. A fee charged under this subsection shall
13 be included in an assessment contract provided under section
14 385.4.

15 3. Special assessments levied and any applicable fees
16 charged by a board under an assessment contract shall be
17 levied, charged, and collected in the manner as provided in the
18 assessment contract and with the same priority as ad valorem
19 property taxes.

20 4. a. If special assessments and any applicable fees are
21 not paid within the time period set forth in the assessment
22 contract, such special assessments and fees shall be considered
23 delinquent. Delinquent special assessments and fees shall
24 become a lien on the property against which the special
25 assessments were levied and the fees charged. A board may
26 collect delinquent special assessments and fees as if the board
27 were a county treasurer pursuant to sections 445.3 and 445.4,
28 except that the property shall not be subject to sale for
29 delinquent taxes under chapter 446.

30 b. Special assessments and any applicable fees that are not
31 delinquent shall not be accelerated as part of any action or
32 proceeding to collect delinquent special assessments or fees.
33 Upon the sale of the real property subject to an assessment
34 contract, any remaining special assessments and applicable fees
35 shall be collected for the remainder of the assessment contract

1 term from a subsequent owner of the real property, including
2 an owner that is the state or any political subdivision of the
3 state.

4 Sec. 6. NEW SECTION. **385.6 Bonds issued.**

5 1. A board may, by resolution, authorize and issue bonds
6 payable from the proceeds of the special assessments and any
7 other revenues collected. Such bonds may bear dates, bear
8 interest at rates not exceeding those permitted by chapter 74A,
9 mature in one or more installments, be in either coupon or
10 registered form, carry registration and conversion privileges,
11 be payable as to principal and interest at times and places,
12 be subject to terms of redemption prior to maturity with or
13 without premium, and be in one or more denominations, all as
14 provided by the resolution of the board authorizing their
15 issuance.

16 2. Bonds issued under this section shall not constitute a
17 debt of the state or of the city or county where the property is
18 located, and the form of such bonds shall contain a statement
19 to that effect.

20 Sec. 7. NEW SECTION. **385.7 Annual reporting.**

21 A board shall submit to the governing body of each
22 participating county and city an annual report for the
23 preceding calendar year that includes the following
24 information:

25 1. A description of each project completed, including the
26 physical address of the benefitted property, the name or names
27 of the property owners, an itemized list of the costs incurred
28 under the project, and the name of any contractors used to
29 complete the project.

30 2. For each project in subsection 1, the amount of special
31 assessments due and the amount collected for the fiscal year
32 ending during the preceding calendar year.

33 3. A summary of the public benefits resulting from the
34 projects listed in subsection 1, including, without limitation,
35 estimated cumulative energy savings resulting from the

1 projects.

2 4. A description of each assessment contract entered into by
3 the board, including a description of the project and a summary
4 of the assessment schedule.

5 5. The amount of administrative costs incurred by the board.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill authorizes a county or city, or one or more
10 counties and one or more cities within those counties to create
11 an energy investment district to finance energy investment
12 projects for the benefit of property within the district.

13 The bill defines an "energy investment" to mean an
14 acquisition, installation, or modification benefitting
15 private property, except residential property with fewer than
16 three residential units, that is intended to reduce energy
17 consumption or energy costs, or both, or to allow for the use
18 of alternate and renewable energy. The bill specifies measures
19 that are considered energy investments.

20 The bill requires the governing bodies of the counties
21 and cities participating in an energy investment district
22 to appoint an energy investment district board to manage
23 and administer the district. The board must consist of at
24 least three members, but in no case fewer than the number of
25 participating cities and counties, and the agreement creating
26 the district must set the term length of board members.

27 The bill authorizes a board to exercise all powers and
28 duties necessary to manage and administer the energy investment
29 district, as provided in the agreement, including the power to
30 adopt bylaws, adopt an official seal, sue and be sued, make and
31 enter into contracts with public and private entities, employ
32 staff, levy and collect special assessments, borrow money from
33 a public or private source and issue bonds, finance energy
34 investment projects, collect fees, and invest funds. A board
35 must exist for a minimum duration necessary to finance any

1 assessment contracts that the board enters into.

2 The bill requires a board to enter into an assessment
3 contract with a property owner to finance a project if the
4 board finds that there are sufficient resources for the
5 project, the estimated monetary benefit, as determined by the
6 board after consulting with an outside expert, is equal to or
7 greater than the total cost of the project, and the project
8 complies with all applicable ordinances and regulations in the
9 county or city where the property is located. An assessment
10 contract executed between a board and a property owner must
11 include a description of the project, a mechanism for verifying
12 the final costs of the project and ensuring that financing
13 provided does not exceed the final costs of the project, an
14 agreement by the property owner to pay special assessments and
15 any applicable fees for a specified period and a schedule of
16 assessments, a statement that the obligations provided in the
17 assessment contract are a covenant that run with the land,
18 an acknowledgment that subdividing property subject to the
19 contract requires the contract or an amendment to the contract
20 to divide the total special assessments due, and written
21 consent to the levy and collection of special assessments and
22 any applicable fees charged from all entities holding mortgages
23 on the property or contract sellers of the property.

24 The bill requires a board to provide a copy of a signed
25 assessment contract to the local assessor and county auditor
26 of the county where the property is located, as well as filing
27 the agreement with the county recorder. A board is authorized
28 to enter into more than one assessment contract for a single
29 property so long as each contract relates to a separate
30 project. A board shall determine an inspection procedure for
31 completed energy investments financed pursuant to the bill.

32 The bill provides that the total special assessments levied
33 by a board cannot exceed the sum of the cost of the project,
34 including all incidental costs and fees. A board may also
35 charge a fee of up to 1 percent of the total cost of the

1 project, not to exceed \$20,000. A board must levy and collect
2 special assessments in the manner as provided in the assessment
3 contract and with the same priority as real property taxes.
4 Special assessments and fees not paid within the time period
5 set forth in the assessment contract are delinquent and become
6 a lien on the property. A board may collect such delinquent
7 assessments and fees in the manner of property taxes pursuant
8 to Code sections 445.3 and 445.4.

9 The bill authorizes a board to issue bonds payable from the
10 special assessments. The board must authorize an issuance of
11 bonds by resolution and may determine the form of the bonds,
12 so long as any interest rates do not exceed those permitted by
13 Code chapter 74A. The bonds do not constitute a debt of the
14 state or of the city or county where the property is located,
15 and must contain a statement to that effect.

16 The bill requires a board to submit an annual report to
17 the governing body of each participating county and city in
18 the district, which must include, for the preceding year, a
19 description of each project completed, the amount of special
20 assessments due and the amount collected for the fiscal year
21 ending during the preceding year, a summary of the public
22 benefits resulting from the projects completed, a description
23 of assessment contracts entered into, and the amount of
24 administrative costs incurred by the board.